

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

FREE CONFERENCE COMMITTEE ON SENATE BILL 57

Call to Order: By **CHAIRMAN MIKE WHEAT**, on April 11, 2003 at 8:02 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Mike Wheat, Chairman (D)
Rep. Bill Thomas, Vice-Chairman (R)
Sen. Bob Keenan (R)
Rep. Michael Lange (R)
Rep. Steven Gallus (D)

Members Excused: Sen. Jeff Mangan (D)

Members Absent: None.

Staff Present: Marian Collins, Secretary
John MacMaster, Legislative Staff

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp for these minutes appears at the beginning of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: Senate Bill 57, 4/10/2003
Executive Action: Amend Further

{Tape: 1; Side: A; Approx. Time Counter: 0.2 - 10}

CHAIRMAN WHEAT explained to the Committee members and visitors how the Senate arrived at their definition for "mental disease or defect" in their amendment.

REP. LANGE and **REP. NOENNIG** explained the concerns the House Subcommittee had with the Senate amendment. They felt the Senate's definition was too broad.

{Tape: 1; Side: A; Approx. Time Counter: 10.1 - 26}

CHAIRMAN WHEAT stated that both the House amendment and the Senate amendment agree to include, "...REQUIRES CARE, TREATMENT AND REHABILITATION" on Line 29. Committee members and visitors presented opinions and further discussed the wording of the definition.

PRESIDENT KEENAN asked for input from Anita Roessman, Paulette Kohman and Dan Anderson.

{Tape: 1; Side: A; Approx. Time Counter: 26.4 - 28.7}

Dan Anderson, Department of Health and Human Services (DPHHS), presented a memo from Dr. Virginia Hill and Mr. Ed Amberg of the Montana State Hospital in Warm Springs. They felt good about the definition from the Senate, and they feel that the House version broadens the definition. Dr. Hill and Mr. Amberg suggested alternatives to the current language.

EXHIBIT (frh78hb0057a01)

{Tape: 1; Side: A; Approx. Time Counter: 28.9 - 30.3}

{Tape: 1; Side: B; Approx. Time Counter: 2.3 - 22.3}

Paulette Kohman, Attorney for DPHHS, stated that the definition simply identifies that the person has some kind of disorder. Because of this disorder, it must then be determined whether or not this person is capable of working with their lawyer or not, whether or not they are able to have the state of mind or not, whether or not they are able to appreciate the criminality of their conduct or conform their conduct to the law. She stated that all definitions aren't as important as what is done with them; it should be used to determine whether a person should be held culpable or should be held in the state institution.

CHAIRMAN WHEAT asked if Dr. Hill and her staff have a preference for which definition they would prefer. **Ms. Kohman** stated that mental disease has to be identified as a disorder, not simply a passing mood. They also stated that simply because a person needs treatment doesn't have anything to do with whether they have a disorder or not.

Anita Roessman, Attorney, Montana Advocacy Program, shared the opinion of several people at this hearing. She likes the definition that came out of the Senate; she had previously requested that they include the words, "CARE, TREATMENT, AND REHABILITATION" be added to their definition.

Leo Gallagher, Lewis & Clark County Attorney, also representing the Montana County Attorney Association, suggested that this Committee pay careful attention to what Dr. Hill has to say.

SEN. MANGAN arrived at 8:45 a.m.

{Tape: 1; Side: B; Approx. Time Counter: 22.5 - 28.5}

CHAIRMAN WHEAT suggested taking the House definition and tailoring it to what Dr. Hill suggested. Discussion ensued and the Committee agreed to strike "IMPAIRMENT" and replace it with "DISORDER" (Line 27), strike "DISORDER OR" and replace it with "SUBSTANTIAL" (Line 28), and strike "AFFLICTED" (Line 29).

Motion/Vote: CHAIRMAN WHEAT moved to **ADOPT THE AMENDED DEFINITION**. Motion carried unanimously by voice vote.

ADJOURNMENT

Adjournment: 8:55 A.M.

SEN. MIKE WHEAT, Chairman

MARIAN COLLINS, Secretary

MW/MC

EXHIBIT (frh78hb0057aad)